

WANTS RAILROADS TO BEAR BURDENS

Major Anderson Presents Final Argument in R. F. & P. Litigation.

INVOKES THE CONSTITUTION

Brilliant Argument by A. C. Braxton Made in Behalf of Railroad.

Making the point that by straightening its road after the statute of 1902 was adopted, the Richmond, Fredericksburg and Potomac Railroad Company had thereby accepted an extension of its powers and had forfeited its exemption from taxation, former Attorney General William A. Anderson closed his argument yesterday before the Supreme Court of Appeals in the notable tax case. The many attorneys present said that the argument on both sides was extremely able and was handled no less brilliantly by the attorneys for the State than by Allen Caperton Braxton, chief counsel for the railroad.

The case is now in the hands of the court for its judgment, which may be rendered within a few weeks.

Would Collect Tax.

By this litigation the State of Virginia hopes to collect from the railway a franchise tax of 1 per cent. on its gross receipts, which would amount to about \$23,000 a year. This would apply as far back as the adoption of the Constitution, and if the point were gained it would be permanent hereafter. The tax has been assessed annually by the State Corporation Commission, but each year the railroad has gone into the Circuit Court of the city of Richmond and secured an order forbidding the Auditor of Public Accounts from collecting the tax.

The non-payment of this tax is, of course, based on the old charter of the road, which exempts it from any form of taxation whatever.

Attorney-General Samuel W. Wil-

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Illiams opened the case for the State, speaking briefly on the arguments based on the supplemental brief which he has prepared since his induction into office. He was followed by Mr. Braxton, counsel for the company.

Georgia Decision. Mr. Braxton relied largely on a case from Georgia, in which it was decided that when the State gave up and surrendered its right to tax the property of the railroad affected, and took in lieu thereof a tax on the net income, it could no more tax a franchise than it could any other property. Thus the franchise was regarded by the Georgia courts as property, to be assessed like any other property.

Calling attention to the fact that in this case the burden was on the Commonwealth to show that the Richmond, Fredericksburg and Potomac had forfeited its exemption, Mr. Braxton contended that it had not done so. As to the argument that a franchise tax was not contemplated in the exemption carried by the original charter, Mr. Braxton said that the State had allowed seventy years to pass before contesting the point.

Franchise Tax New. Making the final argument in the case, Major Anderson said that it had not been contemplated to exempt the franchise tax. As to the argument about letting the time go by, he called attention to the proposition that there was no such thing in Virginia as an actual franchise assessment until the coming of the new Constitution, as prior to that time the tax had been one on income. He said that the railroad pays taxes on other property. When Judge Keith, president of the court, asked what these were, Mr. Braxton answered that they were on lots and buildings not used for railway purposes.

Sundry recent right cases decided in New York and New Jersey were adverted to by Major Anderson, in which it was held that all the property of the concerns affected was exempt from taxation save the franchise. Getting to the Wright case, the former Attorney-General argued that it was not analogous, as in Virginia a franchise tax, although measured by the income, is not a tax on the income or on the profits, but is a tax on the franchise itself. He evidently relied considerably on the distinction he drew in this connection. Judge Harrison asked him if all the other property of the railroad was exempt, except that affected by this suit, and Major Anderson replied that it was not necessarily so, as the road might acquire other property which would not be exempt.

Emphatic Statement. "In fact," he asserted with emphasis, "I hold that no intangible property of the Richmond, Fredericksburg and Potomac is exempt."

The General Assembly, he proceeded, had in April, 1902, passed its law with reference to changes in roadway. Prior to that time the road had a right, he admitted, to straighten its track, but it had no right to leave yawning chasms of abandoned right of way through the territory which it traversed. Less than four weeks after the adoption of the law the company had proceeded to do this work, affecting twenty-six miles of its track. Mr. Braxton called his attention to the fact that this stretch was not continuous, but Major Anderson said that this was immaterial. Persisting, Mr. Braxton said that the work was already under contract before that time, but Major Anderson said that there was no scintilla of evidence in the record to show that, and that Mr. Braxton was contradicted by his own record.

Constitutional Provision. Major Anderson then invoked to his aid in this connection the section 153 of the Constitution "presented by the committee of which my learned friend, Mr. Braxton, was the head," providing that every corporation theretofore chartered in this State which should thereafter accept or affect any amendment or extension of its charter, should be conclusively presumed to have thereby surrendered every exemption from taxation and every non-repealable feature of its charter, and also all exclusive rights and privileges granted previously to it by the General Assembly and not enjoyed by other corporations of a similar character.

Concluding, Major Anderson appealed to the court to make this road bear the same burdens of taxation as other roads borne by citizens of the Commonwealth.

NATIONAL BOARD HERE ON SUNDAY

Trustees of Jewish Hospital for Consumptives to Hold Annual Meeting at Temple.

Members of the board of trustees of the National Jewish Hospital for Consumptives will meet in this city Sunday for the purpose of discussing matters of interest in connection with the work now being done in Denver, Col. In which city the hospital of the organization is located. The meetings will be held in the Sabbath school rooms of Temple Beth Ahabah, and representatives will be present from every section of the United States. The great and good work which the National Jewish Hospital for Consumptives has been doing is well known. Established in 1883 by the Jews of Colorado, who secured a sum of \$40,000 for this purpose, the new organization ran right into a time of financial depression. The great panic which swept the country during that year did not fall very lightly on Colorado, and the most worthy charity, along with other institutions, suffered—suffered so much that the Jews of Denver, regardless of their desire, were unable to continue its operation.

Opened After Panic. The doors were closed and an appeal made to the Independent Order of B'nai B'rith, the chief body of lay Jews in the world. This fraternal organization heard the cry and lent its aid in re-establishing the hospital, though the doors were not again opened until 1899. Since that time hundreds of sufferers of the great white plague have secured medical treatment, and what is probably more, a home within the gates of the hospital, as well as a hospital institution. While the B'nai B'rith does not furnish the entire sum necessary for the maintenance of the hospital, it is still the chief source of revenue, though Jews throughout the United States, having come to realize the great good accomplished, have gladly contributed.

In 1899 Rabbi E. N. Callach, Ph. D. of this city, delivered the dedicatory address before the organization. Since that time he has been actively engaged in fostering and furthering the work. The meeting here will be significant.

In more than one respect. There are a number of questions of grave import to be discussed, and in addition it is likely that plans for the enlargement of the hospital and its scope will also be considered. The sum of \$30,000 each year is expended to maintain the home.

No Creed Distinction. Applicants for admission to the home must not necessarily be Jews. The hospital is non-sectarian, and no questions are asked the prospective inmate as to his creed or religion. It is the desire of those most interested to wipe out this great scourge and to cure if possible those who become tainted with this most dreadful disease. The trustees have long ago come to realize that a man saved from consumption is an economic gain to the people, and instead of being a burden on the community in which he may live, he is, if cured, enabled to earn his own livelihood, and, if he has dependents, a livelihood for them.

The officers of the National Jewish Hospital for Consumptives are: Samuel Grabfelder, Louisville, Ky., president; Louis Gerstley, Philadelphia, Pa., first vice-president; J. Walter Fraiberg, Philadelphia, Pa., second vice-president; Alfred Muller, Denver, Col., secretary; Ben Altheimer, St. Louis, Mo., treasurer; Mrs. J. B. Greenhut, New York, third vice-president.

Meetings will be held here morning and afternoon on Sunday. An illustrated address will be delivered at the Jefferson Club Sunday night by Dr. William S. Friedman, of Denver, president of the State Board of Charities. Musical numbers will be rendered by the choir of Temple Beth Ahabah, augmented by many of the more prominent local vocalists. The Beth Ahabah Choral Union will also take part in the musical program. All of the meetings will be open to the public, and any one desiring to attend is cordially invited. The talks by the various trustees will be more than interesting, as tuberculosis and its cure will be discussed in all of its phases. Dr. Friedman's lecture will be particularly interesting, as he will tell of the work of the Denver hospital and the strides made toward ameliorating existing conditions.

None of the trustees of the Denver Hospital is paid. They serve gratuitously. Among the trustees are some of the merchant princes of the country, as well as those who occupy high positions in other walks of life. A reception will be tendered the delegates at the Jefferson Club Sunday night, and an elaborate program has been mapped out for the entertainment of the visitors.

Among those who will attend are: Atlanta, Ga.—Joseph Hirsch, Boston, Mass.—Edna Well Dreyfus, Buffalo, N. Y.—Herman Wile, Baltimore, Md.—Sigmund B. Sonnenborn, A. A. Brager, Chicago, Ill.—Leo A. Loeb, Henry L. Stern, Israel Cowen, Adolf Kraus (ex-officio).

Cincinnati, O.—J. Walter Fraiberg, Abe Bloch, Maurice Joseph, Cleveland, O.—Martin A. Marks, Dallas, Texas—Alex. Sanger, Denver, Col.—Meyer Friedman, Alfred Muller, Simon Guggenheim, Rev. William S. Friedman, D. D., Mrs. S. S. Sisk, Detroit, Mich.—Adolph Freund, Kansas City, Mo.—Nathan Lorie, Louisville, Ky.—Samuel Grabfelder, Memphis, Tenn.—Ellis Lowenstein, New Orleans, La.—Isidore Newman, Sr.

New York N. Y.—Mrs. J. B. Greenhut, Joseph E. Schoenberg, Adolph Lewishohn, Nathan Kemper, Ignatius Rice, Marc H. Mack, Mrs. Ira L. Bamberger (Brooklyn), Philadelphia, Pa.—Max Bamberger, Louis Gerstley, Pittsburgh, Pa.—Philip Hamburger, Rev. J. Leonard Levy, D. D., Mrs. Pauline H. Rosenberg, Portland, Ore.—Evan Selling, Richmond—Rabbi Edward N. Callach, St. Louis, Mo.—Ben Altheimer, Chas. A. Stix, St. Paul, Minn.—Albert Rose, San Francisco, Cal.—Benl. Schless, Rabbi J. Nieto, Lucius Solomon, Washington, D. C.—Simon Wolf.

To Hear Plans for Trip. German and German-American citizens will hold a mass-meeting at St. Mary's Hall to-night at 8:30 o'clock to hear the report of the committee appointed to make arrangements for attending the unveiling of the Steuben Monument in Washington on December 1.

The deepest interest is being taken from all indications, the attendance from this city will be large.

Talk on Tuberculosis. An illustrated lecture on tuberculosis will be given in Randolph School to-night at 8 o'clock under the auspices of the City and County Health. The public is invited, and no charge for admittance will be made.

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THE DELINEATOR

CLUB PEOPLE REJECT RAILWAY SCHEDULE

Not Willing to Pay Extra Fare to Get Fifteen Minute Service on Westhampton Line—May Take Matter to Corporation Commission.

The committee representing the Country Club of Virginia yesterday rejected the proposition of the Virginia Railway and Power Company for a fifteen-minute schedule on the Westhampton line with the additional charge of 5 cents for the round trip from the city boundary.

This means that the club as a whole will consider the matter at its annual meeting Saturday night, and that the citizens of Westhampton, and the club committee that it would be possible to operate cars on the Westhampton line on a fifteen-minute schedule provided the company received more compensation than it receives at present. Mr. Northrop's letter was not given out in full on Tuesday, but his plan was rejected yesterday, the reply, along with Mr. Northrop's statement, was made public.

Answer to Mr. Northrop. W. F. Powers, for the committee, sent the following answer to President Northrop: "We have your letter of November 7, in which you suggest a fifteen-minute schedule on the Westhampton line in return for an increased fare of 2 1/2 cents. "Our committee cannot approve such an increase, because they of themselves do not think that such an increase is fair, and even if they did approve they feel assured that they could not secure even a reasonable minority of residents, members of the Country Club and property owners that would agree with them.

"We do not see why such discrimination should be made against this section as compared to Forest Hill, Glinter Park and Seven Pines. We believe that we are within our rights in asking for a fifteen-minute schedule from 6 to 9 A. M. and from 3 to 6 P. M. and that without an increased fare. We regret that you have seen fit to put conditions to our request that you yourself must see are impossible.

"We are taking the liberty of giving your letter of November 7 to the press as permission was given to do this by Mr. Guilson, and also of giving this our reply in order that the public may be fully informed. The full text of President Northrop's letter, which brought forth the reply printed above, is as follows: Mr. W. F. Powers, Representing the Westhampton Citizens' Association and the Country Club of Virginia, Incorporated, Richmond, Va.: Dear Sir,—In response to the request of your committee, representing the Westhampton Citizens' Association and the Country Club of Virginia, Inc., that a more frequent schedule be established on the Westhampton line, that the use of trailers be abandoned and that transfers be granted from the Westhampton line, westbound, to the Main Street line, I beg to say that the company offers the following suggestion for the consideration of your association, viz: That it will establish a fifteen-minute service to the terminal in the park for eighteen hours each day and grant transfer privileges from the Main Street line, westbound, to the Westhampton line, upon the following conditions: (1) That transfers will be given to the Westhampton line as at present, and also from the Main Street line, which transfers shall, however, be good only from the junction at Robinson Street and Floyd Avenue to the present corporate limits of the city of Richmond, at Kissing Lane. As to Extra Fare. (2) That the payment of a fare of 2 1/2 cents by means of a school ticket, under present regulations, or by means of a special new ticket which will be placed on sale by the company to all persons at 2 1/2 cents each, will entitle the passenger to transportation westwardly from the present corporate limits of the city of Richmond, at Kissing Lane, good to the terminus of the Westhampton line, in the park, or any intermediate stop. (3) That upon the payment of a school ticket under the present regulations, or the special 2 1/2-cent ticket, a passenger will be entitled to passage eastwardly from the terminus of the line, in Westhampton Park, or any intermediate stop, to the present Richmond city corporate limits at Kissing Lane. The effect of this plan would be to create an additional fare zone, the corporate limits of the city of Richmond, at Kissing Lane, being the dividing line. As an illustration, a passenger desiring to go from Seventh and Broad Streets to the terminus of the Westhampton line, in the park, a distance of approximately 7.32 miles, would pay a total fare of 5 cents if he were entitled to use, and did use, within the city limits, either a school ticket or a labor ticket; if the original fare were paid in cash, the total cost would be 7 1/2 cents. Returning, the same rate would apply. It should be borne in mind that a passenger from seven Pines, Kington, Church Hill, Glinter Park, South Richmond or Forest Hill would be entitled to the same privileges and the same rates as in the case above illustrated. Question of Earlines. The gross earnings of the Westhampton line are not now, nor have they in the past ever been, sufficient to pay the bare operating cost of that line, and the company feels that as the Westhampton Citizens' Association and the Country Club have now joined in a plea for a more frequent schedule and additional transfer privileges, which entail a very much higher cost of operation, with little, if any, increased revenue, they should be willing to help bear such additional cost. The company is unable to transport passengers over the city lines, with transfer privileges to the Westhampton line, under the present system of fares, except at a loss; but if a readjustment of fares as above suggested were made, the company would receive approximately 1 cent per mile, which would, it is believed, meet the cost of operation, assuming a fifteen-minute schedule throughout eighteen hours of the day. We believe the members of your association, as well as those of the club, are willing to pay what the service is actually worth, eliminating altogether the question of grant to the company. The object in view in offering the above suggestion is to grant the request for a fifteen-minute schedule and transfer from the Main Street line, westbound, and to secure in return therefor approximately the cost of producing such service.

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We believe the members of your association, as well as those of the club, are willing to pay what the service is actually worth, eliminating altogether the question of grant to the company. The object in view in offering the above suggestion is to grant the request for a fifteen-minute schedule and transfer from the Main Street line, westbound, and to secure in return therefor approximately the cost of producing such service.

If this plan meets with the approval of the association and the Country Club, the company will, with the support of the two organizations, endeavor to secure such amendment of its county franchise and the city ordinance on the subject as may be necessary to accomplish the desired end.

To Open Its Books. The company will be very glad to meet a committee, duly appointed by your association and by the club, to examine into the cost of operating the Westhampton line, as well as the cost of handling passengers on our entire system, for it is believed that if the company's patrons thoroughly understand the difficulties under which we operate, they will the more readily approve the suggestion we make. In copy of this communication has been forwarded to Mr. Coke, president of the Country Club of Virginia, who desired a reply from this company prior to the annual meeting of the club on November 12.

Yours very truly,
WILLIAM NORTHROP,
President.

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